

**BEFORE THE
CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

ROBERT MICHAEL PASSERO
230 Old Ranch Road
Seal Beach, CA 90740

Certified Public Accountant License No.
CPA 16608

Respondent

Case No. AC-2012-27

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on October 27, 2012.

It is so ORDERED September 27, 2012.



FOR THE CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
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Attorneys for Complainant

8
9 **BEFORE THE**
CALIFORNIA BOARD OF ACCOUNTANCY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 ROBERT MICHAEL PASSERO
230 Old Ranch Road
13 Seal Beach, CA 90740

14 Certified Public Accountant License No.
CPA 16608

15
16 Respondent

Case No. AC-2012-27

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the California Board of Accountancy of the Department of
20 Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and
21 Disciplinary Order, which will be submitted to the California Board of Accountancy for approval
22 and adoption as the final disposition of the Accusation.

23 **PARTIES**

24 1. Patti Bowers (Complainant) is the Executive Officer of the California Board of
25 Accountancy. She brought this action solely in her official capacity and is represented in this
26 matter by Kamala D. Harris, Attorney General of the State of California, by Ron Espinoza,
27 Deputy Attorney General.

28 ///

2. Robert Michael Passero (Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about June 23, 1971, the California Board of Accountancy issued Certified Public Accountant License No. CPA 16608 to Respondent Robert Michael Passero. The Certified Public Accountant License was in full force and effect at all times relevant to the charges brought in Accusation No. AC-2012-27, and will expire on September 30, 2013, unless renewed.

JURISDICTION

4. Accusation No. AC-2012-27 was filed before the California Board of Accountancy (CBA), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 13, 2012. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. AC-2012-27 is attached as Exhibit A and incorporated herein by reference.

ADVICE AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. AC-2012-27. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. AC-2012-27.

4 10. Respondent agrees that his Certified Public Accountant License is subject to
5 discipline, and he agrees to be bound by the CBA's imposition of discipline and probationary
6 terms set forth in the Disciplinary Order below.

7 RESERVATION

8 11. The admissions made by Respondent herein are only for the purposes of this
9 proceeding, or any other proceedings in which the California Board of Accountancy or other
10 professional licensing agency is involved, and shall not be admissible in any other criminal or
11 civil proceeding.

12 CONTINGENCY

13 12. This stipulation shall be subject to approval by the California Board of Accountancy.
14 Respondent understands and agrees that counsel for Complainant and the staff of the California
15 Board of Accountancy may communicate directly with the CBA regarding this stipulation and
16 settlement, without notice to or participation by Respondent. By signing the stipulation,
17 Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the
18 stipulation prior to the time the CBA considers and acts upon it. If the CBA fails to adopt this
19 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
20 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
21 the parties, and the CBA shall not be disqualified from further action by having considered this
22 matter.

23 13. The parties understand and agree that copies of this Stipulated Settlement and
24 Disciplinary Order, including the signatures thereto, shall have the same force and effect as the
25 originals.

26 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
27 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
28 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
3 writing executed by an authorized representative of each of the parties.

4 15. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the CBA may, without further notice or formal proceeding, issue and enter the following
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 **IT IS HEREBY ORDERED** that Certified Public Accountant License No. CPA 16608
9 issued to Respondent Robert Michael Passero is revoked. However, the revocation is stayed, and
10 Respondent is placed on probation for three (3) years on the following terms and conditions.

11 1. **Actual Suspension.** Certified Public Accountant License No. CPA 16608 issued to
12 Respondent Robert Michael Passero is suspended for twelve (12) months, starting on the effective
13 date of the Decision and Order. During the period of suspension, Respondent shall engage in no
14 activities for which certification as a Certified Public Accountant or Public Accountant is required
15 as described in Business and Professions Code, Division 3, Chapter 1, Section 5051.

16 2. **Obey All Laws.** Respondent shall obey all federal, California, other states' and local
17 laws, including those rules relating to the practice of public accountancy in California.

18 3. **Submit Written Reports.** Respondent shall submit, within ten (10) days of
19 completion of the quarter, written reports to the CBA on a form obtained from the CBA. The
20 Respondent shall submit, under penalty of perjury, such other written reports, declarations, and
21 verification of actions as are required. These declarations shall contain statements relative to
22 Respondent's compliance with all the terms and conditions of probation. Respondent shall
23 immediately execute all release of information forms as may be required by the CBA or its
24 representatives.

25 4. **Personal Appearances.** Respondent shall, during the period of probation, appear in
26 person at interviews/meetings as directed by the CBA or its designated representatives, provided
27 such notification is accomplished in a timely manner.

28 ///

1 5. **Comply With Probation.** Respondent shall fully comply with the terms and
2 conditions of the probation imposed by the CBA and shall cooperate fully with representatives of
3 the Board of Accountancy in its monitoring and investigation of the Respondent's compliance
4 with probation terms and conditions.

5 6. **Practice Investigation.** Respondent shall be subject to, and shall permit, practice
6 investigation of the Respondent's professional practice. Such a practice investigation shall be
7 conducted by representatives of the CBA, provided notification of such review is accomplished in
8 a timely manner.

9 7. **Comply With Citations.** Respondent shall comply with all final orders resulting
10 from citations issued by the Board of Accountancy.

11 8. **Tolling of Probation For Out-of-State Residence/Practice.** In the event
12 Respondent should leave California to reside or practice outside this state, Respondent must
13 notify the CBA in writing of the dates of departure and return. Periods of non-California
14 residency or practice outside the state shall not apply to reduction of the probationary period, or
15 of any suspension. No obligation imposed herein, including requirements to file written reports,
16 reimburse the CBA costs, or make restitution to consumers, shall be suspended or otherwise
17 affected by such periods of out-of-state residency or practice except at the written direction of the
18 CBA.

19 9. **Violation of Probation.** If Respondent violates probation in any respect, the CBA,
20 after giving Respondent notice and an opportunity to be heard, may revoke probation and carry
21 out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is
22 filed against Respondent during probation, the CBA shall have continuing jurisdiction until the
23 matter is final, and the period of probation shall be extended until the matter is final.

24 10. **Completion of Probation.** Upon successful completion of probation, Respondent's
25 license will be fully restored, with the exception of the ability to perform attestation services,
26 including audits, as ordered below.

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1 11. **Administrative Penalty.** Respondent shall pay to the CBA an administrative penalty
2 in the amount of \$2,000. The payment of the administrative penalty shall be made to the CBA
3 within thirty (30) days of the effective date of the Decision and Order.

4 12. **Continuing Education Courses.** Respondent shall complete 24 hours of
5 professional education courses as specified by the CBA or its designee at the time of
6 Respondent's first probation appearance. The professional education courses shall be completed
7 within a period of time designated and specified in writing by the CBA or its designee, which
8 time-frame shall be incorporated as a condition of this probation. This shall be in addition to
9 continuing education requirements for relicensing.

10 Failure to satisfactorily complete the required courses as scheduled or failure to complete
11 same no later than 100 days prior to the termination of probation shall constitute a violation of
12 probation.

13 13. **Active License Status.** Respondent shall at all times maintain an active license
14 status with the CBA, including during any period of suspension. If the license is expired at the
15 time the CBA's decision becomes effective, the license must be renewed within 30 days of the
16 effective date of the decision.

17 14. **Cost Reimbursement.** Respondent shall reimburse the CBA \$13,141.43 for its
18 investigation and prosecution costs of this matter. The payment(s) shall be made as follows:
19 minimum monthly payments of \$438.05, due to the CBA by the 5th of each month, until the
20 \$13,141.43 is paid in full, the final payment being due six (6) months before probation is
21 scheduled to terminate.

22 15. **No Unregistered Corporation.** Respondent shall not practice with or as an
23 accountancy corporation that is not registered with the CBA.

24 16. **Restricted Practice.** During probation, Respondent shall not engage in and shall be
25 prohibited from performing any attestation services, including audits.

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the California Board of Accountancy of the Department of Consumer Affairs.

Dated: 7-23-12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General



RON ESPINOZA
Deputy Attorney General
Attorneys for Complainant

SD2011801808
Stipulation.rtf

Exhibit A

Accusation No. AC-2012-27

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11 In the Matter of the Accusation Against:

12 ROBERT MICHAEL PASSERO
230 Old Ranch Road
13 Seal Beach, CA 90740

Case No. AC-2012-27

ACCUSATION

14 Certified Public Accountant License No.
15 CPA 16608

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as
20 the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs.

21 2. On or about June 23, 1971, the California Board of Accountancy issued Certified
22 Public Accountant License Number CPA 16608 to Robert Michael Passero (Respondent). The
23 Certified Public Accountant License was in full force and effect at all times relevant to the
24 charges brought herein, and will expire on September 30, 2013, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the California Board of Accountancy (CBA or
27 Board), Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 5100 states, in relevant part:

2 After notice and hearing the board may revoke, suspend, or refuse
3 to renew any permit or certificate granted under Article 4 (commencing
4 with Section 5070) and Article 5 (commencing with Section 5080), or
5 may censure the holder of that permit or certificate for unprofessional
6 conduct that includes, but is not limited to, one or any combination of the
7 following causes:

8 (c) Dishonesty, fraud, gross negligence, or repeated negligent acts
9 committed in the same or different engagements, for the same or different
10 clients, or any combination of engagements or clients, each resulting in a
11 violation of applicable professional standards that indicate a lack of
12 competency in the practice of public accountancy or in the performance
13 of the bookkeeping operations described in Section 5052.

14 (e) Violation of Section 5097.

15 (g) Willful violation of this chapter or any rule or regulation
16 promulgated by the board under the authority granted under this chapter.

17 5. Section 5060, subdivision (b), states:

18 No person or firm may practice public accountancy under any
19 name other than the name under which the person or firm holds a valid
20 permit to practice issued by the board.

21 6. Section 5097 states, in relevant part:

22 (a) Audit documentation shall be a licensee's records of the
23 procedures applied, the tests performed, the information obtained, and the
24 pertinent conclusions reached in an audit engagement. Audit
25 documentation shall include, but is not limited to, programs, analyses,
26 memoranda, letters of confirmation and representation, copies or abstracts
27 of company documents, and schedules or commentaries prepared or
28 obtained by the licensee.

(b) Audit documentation shall contain sufficient documentation to
enable a reviewer with relevant knowledge and experience, having no
previous connection with the audit engagement, to understand the nature,
timing, extent, and results of the auditing or other procedures performed,
evidence obtained, and conclusions reached, and to determine the identity
of the persons who performed and reviewed the work.

(c) Failure of the audit documentation to document the procedures
applied, tests performed, evidence obtained, and relevant conclusions
reached in an engagement shall raise a presumption that the procedures

1 were not applied, tests were not performed, information was not obtained,
2 and relevant conclusions were not reached. This presumption shall be a
3 rebuttable presumption affecting the burden of proof relative to those
4 portions of the audit that are not documented as required in subdivision (b).
5 The burden may be met by a preponderance of the evidence.

6 7. Section 5109 of the Code provides that the expiration, cancellation,
7 forfeiture or suspension of a license shall not deprive the CBA of jurisdiction to
8 proceed with any investigation of or action or disciplinary action against the licensee,
9 or to render a decision suspending or revoking a license.

10 REGULATIONS

11 8. California Code of Regulations (CCR), Title 16, Section 58 states:

12 Licensees engaged in the practice of public accountancy shall
13 comply with all applicable professional standards, including but not
14 limited to generally accepted accounting principles and generally
15 accepted auditing standards.

16 9. California Code of Regulations, Title 16, Section 65 states:

17 A licensee shall be independent in the performance of services in
18 accordance with professional standards.

19 10. California Code of Regulations, Title 16, Section 68.2 states:

20 (a) To provide for the identification of audit documentation, audit
21 documentation shall include an index or guide to the audit documentation
22 which identifies the components of the audit documentation.

23 (b) In addition to the requirements of Business and Professions
24 Code Section 5097(b), audit documentation shall provide the date the
25 document or working paper was completed by the preparer(s) and any
26 reviewer(s), and shall include the identity of the preparer(s) and any
27 reviewer(s).

28 (c) Audit documentation shall include both the report date and the
date of issuance of the report.

11. California Code of Regulations, Title 16, Section 68.4 states:

(a) Audit documentation that is not completed prior to the date of
issuance of the report shall be completed during the document assembly
period specified in this subsection.

(1) The document assembly period is the 60-day period following the date of issuance of the report. If the report is not issued in connection with such an engagement, the document assembly period ends 60 days after the date that the fieldwork was completed. If the auditor was unable to complete such an engagement, then the document assembly period ends 60 days from the date the engagement ceased.

(2) Notwithstanding the document assembly period specified in paragraph (1) of this subsection, licensees shall comply with applicable professional standards specifying a shorter document assembly period.

(b) After the end of the document assembly period, any, removal, deletion, substitution, or editing of audit documentation, is prohibited. Additions to audit documentation shall comply with the requirements in subsection (c).

(c) In addition to any other documentation required by professional standards, any addition to audit documentation after the end of the document assembly period shall include the following: 1) the reason for the addition, 2) the identity of the persons preparing and approving the addition, and 3) the date of the addition. The documentation which is added shall contain sufficient detail to enable a reviewer with relevant knowledge and experience, having no previous connection with the audit engagement, to understand the nature, timing, reason for, and extent of the addition.

(d) Nothing in this section authorizes the deferral of audit procedures required to be performed prior to the date of issuance of the report.

PROFESSIONAL STANDARDS

12. Standards of practice pertinent to this Accusation and the engagement at issue include, without limitation:

A. Statements on Auditing Standards (SAS) issued by the Auditing Standards Board (ASB) of the American Institute of Certified Public Accountants (AICPA). The SAS are codified by "AU" number in the AICPA's *Codification of Statements on Auditing Standards*. The following SAS are relevant herein.

(1) AU Section 150.02, *Generally Accepted Auditing Standards, Standard of Field Work*, states, in relevant part:

1. The auditor must adequately plan the work and must properly supervise any assistants.

3. The auditor must obtain sufficient appropriate audit evidence by performing audit procedures to afford a reasonable basis for an opinion regarding the financial statements under audit.

1 (2) AU Section 339, *Audit Documentation*, states, in relevant part:

2 ...
3 .03 The auditor must prepare audit documentation in connection with each
4 engagement in sufficient detail to provide a clear understanding of the work
5 performed (including the nature, timing, extent, and results of audit procedures
6 performed), the audit evidence obtained and its source, and the conclusions
7 reached. Audit documentation:

8 a. Provides the principal support for the representation in the auditor's
9 report that the auditor performed the audit in accordance with generally
10 accepted auditing standards.

11 b. Provides the principal support for the opinion expressed regarding
12 the financial information or the assertion to the effect that an opinion
13 cannot be expressed.

14 .04 Audit documentation is an essential element of audit quality. Although
15 documentation alone does not guarantee audit quality, the process of preparing
16 sufficient and appropriate documentation contributes to the quality of an audit.

17 .05 Audit documentation is the record of audit procedures performed, relevant
18 audit evidence obtained, and conclusions the auditor reached. Audit
19 documentation, also known as working papers or workpapers, may be recorded
20 on paper or on electronic or other media. When transferring or copying paper
21 documentation to another media, the auditor should apply procedures to
22 generate a copy that is faithful in form and content to the original paper
23 document.

24 .06 Audit documentation includes, for example, audit programs, analyses,
25 issues memoranda, summaries of significant findings or issues, letters of
26 confirmation and representation, checklists, abstracts or copies of important
27 documents, correspondence (including e-mail) concerning significant findings
28 or issues, and schedules of the work the auditor performed. Abstracts or copies
of the entity's records (for example, significant and specific contracts and
agreements) should be included as part of the audit documentation if they are
needed to enable an experienced auditor to understand the work performed and
conclusions reached. The audit documentation for a specific engagement is
assembled in an audit file.

29 ...
30 (3) AU Section 337, *Inquiry of a Client's Lawyer Concerning Litigation, Claims,*
31 *and Assessments*, states, in relevant part:

32 ...
33 .06 An auditor ordinarily does not possess legal skills and, therefore, cannot
34 make legal judgments concerning information coming to his attention.
35 Accordingly, the auditor should request the client's management to send a letter
36 of inquiry to those lawyers with whom management consulted concerning
37 litigation, claims, and assessments.
38 ...

1 .08 A letter of audit inquiry to the client's lawyer is the auditor's primary means
2 of obtaining corroboration of the information furnished by management
3 concerning litigation, claims, and assessments. Audit evidence obtained from
4 the client's inside general counsel or legal department may provide the auditor
5 with the necessary corroboration. However, audit evidence obtained from inside
6 counsel is not a substitute for information outside counsel refuses to furnish.

7
8 .10 In special circumstances, the auditor may obtain a response concerning
9 matters covered by the audit inquiry letter in a conference, which offers
10 an opportunity for a more detailed discussion and explanation than a written
11 reply. A conference may be appropriate when the evaluation of the need
12 for accounting for or disclosure of litigation, claims, and assessments involves
13 such matters as the evaluation of the effect of legal advice concerning unsettled
14 points of law, the effect of uncorroborated information, or other complex
15 judgments. The auditor should appropriately document conclusions reached
16 concerning the need for accounting for or disclosure of litigation, claims, and
17 assessments.

18 (4) AU Section 333.05, *Obtaining Written Representations*, states, in relevant part:

19
20 .05 Written representations from management should be obtained for all
21 financial statements and periods covered by the auditor's report. For example,
22 if comparative financial statements are reported on, the written representations
23 obtained at the completion of the most recent audit should address all
24 periods being reported on. The specific written representations obtained by the
25 auditor will depend on the circumstances of the engagement and the nature
26 and basis of presentation of the financial statements.

27 (5) AU Section 311, *Planning and Supervision, Audit Plan*, states, in relevant part:

28
29 .19 The auditor must develop an audit plan in which the auditor documents
30 the audit procedures to be used that, when performed, are expected to
31 reduce audit risk to an acceptably low level.

32 .20 The audit plan is more detailed than the audit strategy and includes
33 the nature, timing, and extent of audit procedures to be performed by audit team
34 members in order to obtain sufficient appropriate audit evidence to reduce audit
35 risk to an acceptably low level. Documentation of the audit plan also serves as a
36 record of the proper planning and performance of the audit procedures that can
37 be reviewed and approved prior to the performance of further audit procedures.

38 .21 The audit plan should include:

- A description of the nature, timing, and extent of planned risk assessment procedures sufficient to assess the risks of material misstatement, as determined under section 314, *Understanding the Entity and Its Environment and Assessing the Risks of Material Misstatement*.

1 • A description of the nature, timing, and extent of planned further audit
2 procedures at the relevant assertion level for each material class of
3 transactions, account balance, and disclosure, as determined under
4 section 318, *Performing Audit Procedures in Response to Assessed Risks*
5 and *Evaluating the Audit Evidence Obtained*. The plan for further
6 audit procedures reflects the auditor's decision whether to test the
7 operating effectiveness of controls, and the nature, timing, and extent
8 of planned substantive procedures.

9 ...

10 (6) AU Section 150.02, *Generally Accepted Auditing Standards, General*

11 *Standards*, states, in relevant part:

12 ...

13 2. The auditor must maintain independence in mental attitude in all matters
14 relating to the audit.

15 ...

16 (7) AU Section 220, *Independence*, states, in relevant part:

17 .01 The second general standard is:

18 The auditor must maintain independence in mental attitude in all matters
19 relating to the audit.

20 .02 This standard requires that the auditor be independent; aside from
21 being in public practice (as distinct from being in private practice), he must
22 be without bias with respect to the client since otherwise he would lack that
23 impartiality necessary for the dependability of his findings, however excellent
24 his technical proficiency may be. However, independence does not imply the
25 attitude of a prosecutor but rather a judicial impartiality that recognizes an
26 obligation for fairness not only to management and owners of a business but
27 also to creditors and those who may otherwise rely (in part, at least) upon the
28 independent auditor's report, as in the case of prospective owners or creditors.

.03 It is of utmost importance to the profession that the general public
maintain confidence in the independence of independent auditors. Public
confidence would be impaired by evidence that independence was actually
lacking, and it might also be impaired by the existence of circumstances which
reasonable people might believe likely to influence independence. To be
independent, the auditor must be intellectually honest; to be *recognized* as
independent, he must be free from any obligation to or interest in the client, its
management, or its owners. For example, an independent auditor auditing a
company of which he was also a director might be intellectually honest, but it is
unlikely that the public would accept him as independent since he would be in
effect auditing decisions which he had a part in making. Likewise, an auditor
with a substantial financial interest in a company might be unbiased in
expressing his opinion on the financial statements of the company, but the
public would be reluctant to believe that he was unbiased. Independent auditors
should not only be independent in fact; they should avoid situations that may
lead outsiders to doubt their independence.

...

1 COST RECOVERY

2 13. Section 5107, subdivision (a), states:

3 The executive officer of the board may request the administrative
4 law judge, as part of the proposed decision in a disciplinary proceeding,
5 to direct any holder of a permit or certificate found to have committed a
6 violation or violations of this chapter to pay to the board all reasonable
7 costs of investigation and prosecution of the case, including, but not
8 limited to, attorneys' fees. The board shall not recover costs incurred at
9 the administrative hearing.

10 FIRST CAUSE FOR DISCIPLINE

11 (Gross Negligence)

12 14. Respondent is subject to disciplinary action under Business and Professions Code
13 section 5100, subdivision (c), in that he committed gross negligence in regard to his 2008 audit
14 engagement for Quarter Horse Racing, Inc., and Subsidiaries. The circumstances are as follows:

15 15. On or about May 12, 2009, Respondent issued his Independent Auditor's Report on
16 the financial statements of Quarter Horse Racing, Inc., and Subsidiaries as of and for the year
17 ended December 31, 2008. These client(s) were non-issuers (that is, entities who are not issuers
18 as defined by the Sarbanes-Oxley Act, and entities whose audits are not required to be conducted
19 according to the Public Company Accounting Oversight Board (PCAOB) standards).

20 Respondent's audit workpapers for his Independent Auditor's Report failed to contain numerous
21 necessary elements required of an audit engagement, including the following:

22 A. Sufficient details to provide a clear understanding of the work performed,
23 including the nature, timing, extent, and results of audit procedures (AU § 339; Bus. & Prof. Code
24 § 5097);

25 B. Management representation letter (AU § 333.05);

26 C. Inquiry of the client's lawyer concerning litigation, claims, and assessments (AU
27 § 337);

28 D. Audit planning and procedures (AU §§ 150.02, 311);

E. Audit workpapers references (AU § 339; Bus. & Prof. Code § 5097);

F. Identification of audit workpapers preparer (16 CCR § 68.2); and

1 G. Audit index (16 CCR § 68.2).

2 16. Incorporating by reference the allegations in paragraphs 14 and 15 above, cause for
3 discipline of Respondent is established under Code section 5100 in that Respondent's failures
4 constitute extreme departures from applicable professional standards, that is, gross negligence, in
5 violation of Code section 5100, subdivision (c).

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Repeated Negligent Acts)**

8 17. Incorporating by reference the allegations in paragraph 15 above, Respondent is
9 subject to disciplinary action under Business and Professions Code section 5100, subdivision (c),
10 in that Respondent committed repeated negligent acts within his 2008 audit engagement for
11 Quarter Horse Racing, Inc., and Subsidiaries, each resulting in a violation of applicable
12 professional standards indicating a lack of competency in the practice of public accountancy.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Violation of Audit Documentation Requirements)**

15 18. Incorporating by reference the allegations in paragraph 15 above, Respondent is
16 subject to disciplinary action under Business and Professions Code section 5100, subdivision (e),
17 in conjunction with Section 5097, in that Respondent's audit workpapers for his 2008 audit
18 engagement of Quarter Horse Racing, Inc., and Subsidiaries, failed to contain sufficient details
19 and documentation to enable a reviewer with relevant knowledge and experience, having no
20 previous connection with the audit engagement, to understand the nature, timing, extent, and
21 results of the auditing or other procedures performed, evidence obtained, and conclusions
22 reached, and failed to identify the persons who performed and reviewed the work.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(Violation of Professional Standards)**

25 19. Incorporating by reference the allegations in paragraph 15 above, Respondent is
26 subject to disciplinary action under Business and Professions Code section 5100, subdivision (g),
27 in conjunction with California Code of Regulations, Title 16, Section 58, in that Respondent's
28 failures constitute multiple willful violations of applicable professional standards.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Lack of Independence in Performing Audit)**

3 20. Respondent is subject to disciplinary action under Business and Professions Code
4 section 5100, subdivision (g), in conjunction with California Code of Regulations, Title 16,
5 Section 65, in that Respondent lacked independence in performing the 2008 audit engagement for
6 Quarter Horse Racing, Inc., and Subsidiaries, in accordance with professional standards. The
7 circumstances are as follows:

8 21. On or about May 12, 2009, Respondent issued his Independent Auditor's Report on
9 the financial statements of Quarter Horse Racing, Inc., and Subsidiaries, as of and for the year
10 ended December 31, 2008. Respondent, however, was also the Chief Financial Officer (CFO) for
11 Quarter Horse Racing, Inc., during 2008 (until December 13, 2008). In effect, Respondent was
12 auditing the organization and the transactions for which he bore primary responsibility for more
13 than 11 months of the year. As Respondent was an officer of the very same company he was
14 auditing, he lacked independence in performing the audit.

15 **SIXTH CAUSE FOR DISCIPLINE**

16 **(Practice of Public Accountancy by Unregistered Corporation)**

17 22. Respondent is subject to disciplinary action under Business and Professions Code
18 section 5100, subdivision (g), in conjunction with Section 5060, in that Respondent practiced
19 public accountancy under a name for which he did not hold a valid permit to practice issued by
20 the Board. The circumstances are as follows:

21 23. In or about May 2002, Respondent formed the corporation "Robert M. Passero,
22 C.P.A., An Accountancy Corporation," and practiced public accountancy under that name, including
23 issuing the May 12, 2009, Independent Auditor's Report on the financial statements of Quarter
24 Horse Racing, Inc., and Subsidiaries, for the year ended December 31, 2008. Respondent,
25 however, has never registered his accountancy corporation with the Board.

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1 SEVENTH CAUSE FOR DISCIPLINE

2 (Violation of Audit Documentation Requirements)

3 24. Respondent is subject to disciplinary action under Business and Professions Code
4 section 5100, subdivision (g), in conjunction with California Code of Regulations, Title 16,
5 Section 68.4, in that Respondent failed to comply with the requirements in making additions to
6 audit documentation after the audit report has already been issued to the client. The
7 circumstances are as follows:

8 25. On or about May 12, 2009, Respondent issued his Independent Auditor's Report on
9 the financial statements of Quarter Horse Racing, Inc., and Subsidiaries, as of and for the year
10 ended December 31, 2008. After issuing the Report, Respondent added to the audit workpapers a
11 copy of a state tax refund check dated March 1, 2010. The document was added to the audit
12 documentation with no reason or explanation given for the addition, and no record of the date of
13 the addition, in violation of Section 68.4, subdivision (c).

14 **DISCIPLINE CONSIDERATIONS**

15 26. To determine the degree of discipline, if any, to be imposed on Respondent,
16 Complainant alleges that on or about August 26, 1999, in a prior disciplinary action entitled "In
17 the Matter of the Accusation Against Robert M. Passero," before the CBA, in Case No.
18 AC 1999-29, Respondent was disciplined (suspended for 30 days and placed on probation for
19 three years) due to his March 24, 1999, federal conviction for filing false documents with the
20 Internal Revenue Service. A copy of the Board's Decision is attached hereto as Exhibit A. That
21 decision is now final and is incorporated by reference as if fully set forth herein.

22
23 PRAYER

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
25 and that following the hearing, the California Board of Accountancy issue a decision:

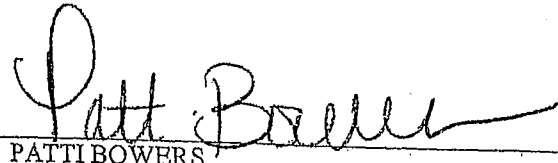
26 1. Revoking or suspending or otherwise imposing discipline upon Certified Public
27 Accountant License Number CPA 16608, issued to Robert Michael Passero;

28 ///

- 1 2. Ordering Robert Michael Passero to pay the California Board of Accountancy the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 5107;
4 3. Taking such other and further action as deemed necessary and proper.

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7 DATED:

April 2, 2012



PATTI BOWERS
Executive Officer
California Board of Accountancy
Department of Consumer Affairs
State of California
Complainant

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accusation.rtf

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EXHIBIT A

1 BILL LOCKYER, Attorney General
of the State of California
2 SUSAN FITZGERALD (State Bar #112278)
Deputy Attorney General
3 110 West A Street, Suite 1100
P.O.Box 85266
4 San Diego, California 92186
Telephone: (619) 645-2066
5 Facsimile: (619) 645-2061

6 Attorneys for Complainant

7 BEFORE THE
BOARD OF ACCOUNTANCY
8 DEPARTMENT OF CONSUMER AFFAIRS
9 STATE OF CALIFORNIA

10 In the Matter of the Accusation)	Case No. AC-1999-29
Against:)	
11)	
12 ROBERT M. PASSERO, CPA)	
10701 Los Alamitos Blvd., #210)	STIPULATION IN
Los Alamitos, CA 90720)	SETTLEMENT; ORDER
13)	
14 CPA Certif. No. 16608,)	
Respondent.)	
15)	

16 Respondent, ROBERT M. PASSERO, and the California Board of
17 Accountancy (hereinafter referred to as the "Board") through BILL
18 LOCKYER, Attorney General of California and SUSAN FITZGERALD,
19 Deputy Attorney General, do hereby enter into the following
20 stipulation:
21 1. Respondent ROBERT M. PASSERO (hereinafter referred to
22 as "Respondent") hereby acknowledges receipt of Accusation AC-
23 1999-29, a Statement to Respondent, Request for Discovery,
24 excerpts of California Government Code, sections 11507.5, 11507.6
25 and 11507.7, and a Notice of Defense.

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1 2. Respondent is represented by Raymond Finn, Esq., 15760
2 Ventura Boulevard, Suite 700, Encino, CA 91436. Respondent has
3 consulted with his counsel about this Stipulation, discussed each
4 term and condition with him, and understands the force and effect
5 of each term and condition of this Stipulation.

6 3. Respondent is fully aware of his right to a hearing on
7 the charges and allegations contained within Accusation
8 AC-1999-29, his right to reconsideration, appeal, and all other
9 rights which may be accorded pursuant to the California
10 Administrative Procedure Act and the laws of the State of
11 California.

12 4. Respondent hereby freely and voluntarily waives his
13 right to a hearing, reconsideration, appeal, and any and all
14 other rights which may be accorded by the California
15 Administrative Procedure Act and the laws of the State of
16 California with regard to Accusation AC-1999-29.

17 5. This Stipulation is made for the purpose of settling
18 Accusation AC-1999-29. It is only for the purpose of this
19 proceeding and any other subsequent proceeding between the Board
20 and Respondent, or any action taken by or before any governmental
21 body responsible for licensing accountants.

22 6. Respondent hereby admits the truth and accuracy of the
23 allegations and charges against him in the Accusation and that
24 these charges constitute cause for discipline of his license to
25 practice as a certified public accountant. Further, respondent
26 admits the crime for which he was convicted is a crime
27 substantially related to the practice of public accountancy. A

1 true and correct copy of the Accusation is incorporated herein by
2 reference and attached to this Stipulation.

3 7. The parties agree that faxed copies of this Stipulation,
4 including faxed signatures of the parties, shall be used with the
5 same force and effect as originals.

6 8. It is understood by respondent that, in deciding whether
7 to adopt this Stipulation, the Board may receive oral and written
8 presentations from, and make inquiries of, its staff, the
9 Complainant, and the Attorney General's office. Communications
10 pursuant to this paragraph shall not disqualify the Board or
11 other persons from future participation in this or any other
12 matter affecting respondent. In the event this settlement is not
13 adopted by the Board, the Stipulation will not become effective,
14 shall have no force or effect, and may not be used for any
15 purpose, except for this paragraph, which shall remain effective.

16 9. Based on the admissions set forth in this Stipulation,
17 respondent agrees that the Board of Accountancy may issue the
18 following Order:

19 ORDER

20 Accountancy Certificate Number 16608, previously issued to
21 Respondent ROBERT M. PASSERO is hereby revoked; however, said
22 revocation of Accountancy Certificate Number 16608 is hereby
23 stayed and the Certificate is placed on probation for a period of
24 three (3) years from the effective date fixed herein by the
25 Board, upon the following terms and conditions:

26 ///

27 ///

1 1. SUSPENSION

2 Accountancy Certificate Number 16608 is suspended for thirty
3 (30) days beginning on the effective date of this Decision.

4 During the period of suspension, respondent shall engage in no
5 activities for which certification as a Certified Public
6 Accountant or Public Accountant is required.

7 2. OBEY ALL LAWS

8 Respondent shall obey all federal, California, other state
9 and local laws, including those rules relating to the practice of
10 public accountancy in California.

11 3. SUBMIT WRITTEN REPORTS

12 Respondent, within ten (10) days of completion of the
13 quarter, shall submit quarterly written reports to the Board on a
14 form obtained from the Board. Respondent shall submit such
15 written reports and other declarations and verifications of
16 actions under penalty of perjury as are required. These
17 declarations shall contain statements relative to respondent's
18 compliance with all the terms and conditions of probation.

19 Respondent shall immediately execute all release of
20 information forms as may be required by the Board or its
21 representatives.

22 4. PERSONAL APPEARANCES

23 Respondent, during the period of probation, shall appear in
24 person at interviews/meetings as directed by the Board or its
25 designated representatives, provided notification is accomplished
26 in a timely manner.

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1 5. COOPERATE WITH PROBATION MONITORING

2 Respondent shall fully comply with the terms and conditions
3 of the probation imposed by the Board and shall cooperate fully
4 with representatives of the Board in their monitoring and
5 investigation of respondent's compliance with probation terms and
6 conditions. Respondent shall at all times maintain current
7 license status with the Board, including during any period of
8 suspension. If the license is expired at the time the Board's
9 Decision becomes effective the license must be renewed within
10 thirty (30) days of the effective date of the Decision.

11 6. PRACTICE INVESTIGATION

12 Respondent shall be subject to, and shall permit, a practice
13 investigation of the respondent's professional practice. Such a
14 practice investigation shall be conducted by representatives of
15 the Board, provided notification of such review is accomplished
16 in a timely manner.

17 7. COMPLY WITH CITATIONS

18 Respondent shall comply with all final orders resulting from
19 citations issued by the Board.

20 8. TOLLING OF PROBATION FOR OUT-OF-STATE RESIDENCE / PRACTICE

21 In the event respondent should leave California to reside or
22 practice outside this state, he must notify the Board in writing
23 of the dates of departure and return. Periods of non-California
24 residency or practice outside the state shall not apply to
25 reduction of the probationary period.

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1 9. VIOLATION OF PROBATION

2 If respondent violates probation in any respect, the Board,
3 after giving respondent notice and an opportunity to be heard,
4 may revoke probation and carry out the disciplinary Order that
5 was stayed. If an Accusation or a Petition to Revoke Probation
6 is filed against Respondent during probation, the Board shall
7 have continuing jurisdiction until the matter is final, and the
8 period of probation shall be extended until the matter is final.

9 10. COMPLETION OF PROBATION

10 Upon successful completion of probation, respondent's
11 license will be fully restored.

12 11. ETHICS COURSE/EXAMINATION

13 Respondent shall take and pass a Board-approved ethics
14 examination within one (1) year of the effective date of the
15 Order. If respondent fails to pass said examination within the
16 time period provided or within two attempts, respondent shall so
17 notify the Board and shall cease practice until he takes and
18 successfully passes said examination, has submitted proof of same
19 to the Board, and has been notified by the Board that he may
20 resume practice. Failure to pass the required examination no
21 later than 100 days prior to the termination of probation shall
22 constitute a violation of probation. Notwithstanding any other
23 provision of this probation, failure to take and pass this
24 examination within three (3) years of the effective date of this
25 Order constitutes a separate cause for discipline of respondent's
26 license.

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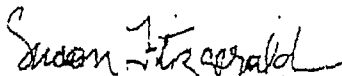
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TO

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12. COSTS REIMBURSEMENT

Respondent shall reimburse the Board ~~\$2,554.00~~ ^{\$2,554.00. RA sf} for its investigation and prosecution costs. Full payment shall be made within 12 months of the effective date the Board's Decision.

Dated: 6/30, 1999.BILL LOCKYER, Attorney General
of the State of CaliforniaSUSAN FITZGERALD
Deputy Attorney General

Attorneys for Complainant

Dated: 6/29, 1999

RAYMOND FINN, ESQ.

Attorney for Respondent

SUBMISSION OF STIPULATION

I have read and reviewed the terms and conditions of the Stipulation and Order set forth herein above. I understand that this is an offer in settlement made to the Board, and will not be effective unless and until the Board formally adopts said Stipulation as its Decision in this matter. I expressly acknowledge that if adopted, my Certificate Number 16608 will be placed on probation to the Board and pursuant to said probation,

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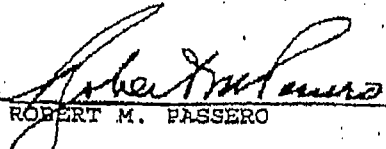
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TO

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1 there are specific terms and conditions with which I must comply.
2 I voluntarily enter into the instant Stipulation and agree to be
3 bound by the terms and conditions of the disciplinary Order
4 herein.

5 Dated: 6/28, 1999.

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9 ROBERT M. PASSERO

10 Respondent
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1 BILL LOCKYER, Attorney General
of the State of California
2 SUSAN FITZGERALD, (BAR #112278)
Deputy Attorney General
3 110 West A Street, Suite 1100
P.O.Box 85266
4 San Diego, California 92186
Telephone: (619) 645-2066
5 Facsimile: (619) 645-2061
6 Attorneys for Complainant

7
8 BEFORE THE
9 BOARD OF ACCOUNTANCY
10 DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA

12 In the Matter of the Accusation
Against:

Case No. AC-1999-29

13 ROBERT M. PASSERO, CPA
14 10701 Los Alamitos Blvd., #210
Los Alamitos, CA 90720

ACCUSATION

15 CPA Certif. No. 16608,
16
17 Respondent.

18 Complainant, Carol Sigmann, alleges as follows:

19 1. She is the Executive Officer of the Board of
20 Accountancy, Department of Consumer Affairs, State of California
21 (the "Board") and makes and files this Accusation solely in her
22 official capacity as such.

23 LICENSE HISTORY

24 2. On or about June 23, 1971, the Board issued Certified
25 Public Accountant ("CPA") Certificate No. 16608 to Robert M.
26 Passero ("respondent"). Said license will expire on September
27 30, 1999.

1 STATUTES

2 3. This Accusation refers to the following sections of the
3 California Business & Professions Code (the "Code");

4 A. Section 5100 provides that the Board may discipline the
5 certificate or censure the holder of any certificate guilty of
6 unprofessional conduct, which includes, inter alia the following:

7 "(a) Conviction of any crime substantially related to
8 the qualifications, functions and duties of a certified
9 public accountant or public accountant.

10 "...

11 "(i) Knowing preparation, publication or dissemination
12 of false, fraudulent, or materially misleading
13 financial statements, reports, or information."

14 B. Section 5106 provides in pertinent part as follows:

15 "A plea or verdict of guilty or a conviction following a
16 plea of nolo contendere is deemed to be a conviction within the
17 meaning of this article. The record of the conviction shall be
18 conclusive evidence thereof."

19 C. Section 5107 provides for the recovery by the Board of
20 its reasonable costs of investigation and prosecution, including
21 attorney's fees if respondent is found to have violated, inter
22 alia, Code section 5100(i).

23 CHARGES AND ALLEGATIONS

24 4. Respondent has subjected his CPA certificate to
25 discipline under Code section 5100(a) and 5100(i) in that on or
26 about March 24, 1999 in the United States District Court,
27 Northern District of California in United States v. Edna Paiva

1 and Robert Passero, Case No. CR98 40183, respondent was convicted
2 of one count of filing false documents with the Internal Revenue
3 Service, a violation of Title 26, United States Code section
4 7207.

5 The facts and circumstances surrounding this conviction are
6 that respondent submitted two letters for a client to the
7 Internal Revenue Service, both of which he knew to contain false
8 and fraudulent information as to a material matter. Said
9 conviction is substantially related to the qualifications,
10 functions and duties of a CPA.

11 WHEREFORE, Complainant requests that a hearing be held on
12 the matters alleged and that following that hearing the Board
13 issue a decision:

14 A. Revoking, suspending, or otherwise imposing discipline
15 upon CPA certificate no. 16608 heretofore issued to Robert M.
16 Passero;

17 B. Awarding the reasonable costs of investigation and
18 prosecution pursuant to Code section 5107;

19 C. Taking such other and further action as the Board deems
20 proper.

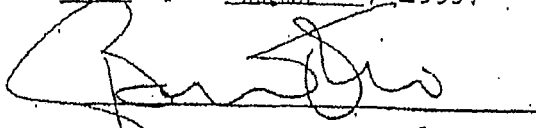
21 DATED: June 25, 1999.

22
23 Carol Sigmann
24 CAROL SIGMANN, Executive Officer

25 Board of Accountancy
26 Department of Consumer Affairs
27 State of California

ADOPTION AND DECISION

The Stipulation in Settlement of Accusation AC-1999-29
and Order is formally adopted by the California Board of
Accountancy as its Decision in Accusation AC-1999-29 against
ROBERT M. PASSERO, on this 27th day of July, 1999, and
shall become effective on the 26th day of August, 1999.



CALIFORNIA BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA